

Doctors Hospital 1997 LP d/b/a United Memorial Medical Center (“UMMC”), a party in interest, objects to the Amended Proof of Claim (Claim no. 42-2) filed by WPMC 2016-C 34 Northwest Freeway, LLC, as successor in interest to Cypress MOB, LLC. In support of this objection, UMMC respectfully shows:

**I.
Jurisdiction & Venue**

1. This is a contested matter involving a Proof of Claim filed in a bankruptcy case. This Court properly has original and exclusive jurisdiction over this contested matter pursuant to 28 U.S.C. § 1334(a); *see also* 28 U.S.C. §§ 151 (designating this Court as a unit of the United States District Court for the Southern District of Texas), 157(a) (allowing district courts to refer matters to the bankruptcy courts), General Order 2012-6 (S.D. Tex. May 24, 2012), *available at* <http://www.txs.uscourts.gov/district/genord/2012/2012-06.pdf> (referring all cases and proceedings arising under, arising in, or related to a case under Title 11, United States Code to the Bankruptcy Courts of the District). This is a core proceeding because this matter involves the allowance or disallowance of claims against the Estate. 28 U.S.C. § 157(b)(2)(B). Therefore, this Court may properly enter any final orders regarding this claim objection.

2. At this time, no counterclaims are being asserted against the Claimant; therefore, the Constitutional prohibition of this Court making final orders arising out of any such counterclaims is not implicated. *See Stern v. Marshall*, 564 U.S. 462, 502–03 (holding that 28 U.S.C. § 157(b)(2)(C), which authorizes bankruptcy judges to issue final judgments in counterclaims by a debtor’s estate against entities filing claims against the estate, is an unconstitutional delegation of

Article III authority to bankruptcy judges). To the extent any consent is required, the UMMC hereby consents to the entry of final orders in this claim objection by the Bankruptcy Court.

3. Venue is proper pursuant to 28 U.S.C. § 1408.

II. Proof of Claim

4. On April 14, 2022, WPMC 2016-C 34 Northwest Freeway, LLC, as successor in interest to Cypress MOB, LLC, Ally Bank Lease Trust (“WPMC”) filed an Amended Proof of Claim (Claim no. 41-2). WPMC asserted a general, unsecured claim totaling \$1,103,464.59. The basis of this claim is for unpaid rent and related charges arising from two leases for office space that expired on September 30, 2020. A copy of this proof of claim is attached as **Exhibit 2**.

III. Basis for Objection

5. UMMC, objects to this claim on the basis that: (a) WPMC failed to take reasonable steps to mitigate its damages following Debtor’s breach of the two lease agreements, and (b) WPMC has failed to provide any evidence to substantiate the attorneys’ fees, court costs, costs for keys and furniture removal, foreclosure costs, and interest as set forth in the Proof of Claim.

6. WPMC failed to exercise reasonable efforts to minimize its damages arising from Debtor’s breach of the two lease agreements forming the basis of its Proof of Claim. *See Great American Ins. v. North Austin MUD*, 908 S.W.2d 415, 426 (Tex. 1995). Moreover, WPMC was required to mitigate its damages even if it had to incur a slight expense or reasonable effort to relet the leased premises. *See Atrium Med. Ctr. LP v. Houston Red C LLC*, 595 S.W.3d 188, 197 n.40 (Tex. 2020).

7. Additionally, WFMC seeks additional charges besides unpaid rent, which can be calculated from the notices of default, the lease agreements, and their amendments contained within documents filed with the Proof of Claim. What cannot be determined are WFMC's claims for anything other than past-due rent. The only support for \$282,625.07 of WFMC's claim is the following chart:

Account Supplemental Data

Bankruptcy Rule 3001(c)(2) Balance Itemization

\$458,984.46	Lease 1
\$361,855.06	Lease 2
\$40,000.00	Attorney's Fees
\$5,000.00	Court Costs
\$13,311.00	Keys, Furniture removal, etc
\$15,000.00	Will McDermott Emery Foreclosure
\$209,314.07	Interest

\$1,103,464.59	Total Claim Amount
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\$820,839.52	Principal
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\$209,314.07	Interest
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\$55,000.00	Fees
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\$18,311.00	Costs
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(ECF no. 41-2, p. 4).

8. Accordingly, the Court should disallow all, or part, of the proof of claim filed by WFMC.

**IV.
Declaration**

9. The Declaration of Ravishankar Mallapuram, verifying the facts stated in this Objection is attached as **Exhibit 1**, and its contents are incorporated herein by reference.

WHEREFORE, premises considered, Doctors Hospital 1997 LP d/b/a United Memorial Medical Center, respectfully requests that this Court sustain this objection and grant all such further relief which is just.

Respectfully Submitted,

PENDERGRAFT & SIMON, LLP

/s/ William P. Haddock

Leonard H. Simon

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S.D. Tex. Adm. No. 8200

William P. Haddock

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*Counsel for Doctors Hospital 1997 LP
d/b/a United Memorial Medical Center*

Certificate of Service

I hereby certify that a true and correct copy of the above Objection to Proof of Claim has been served on the following counsel/parties of record in accordance with the Fed. R. Bankr. P. 9013, BLR 9013 and local rules for ECF service on this 29th day of November, 2022:

All Counsel/parties appearing electronically via ECF.

Claimant via first-class mail, postage prepaid:

WFMC 2016-C34 Northwest Freeway, LLC
Successor in Interest to Cypress MOB, LLC
c/o Gordon Lusky, LLP
Houston, TX 77027

Twenty largest general, unsecured creditors, excluding insiders via first-class mail, postage prepaid:

Staples Technology/Daneen Lotsey
1096 East Newport Ctr. Dr., Suite 300
Deerfield Beach, FL 33442

Welltrack One
c/o John R.C. Bowen
Laughlin & Bowden, PC
Hilton Head Island, SC 29925

McKesson Medical-Surgical, Inc.
c/o Stephanie Hampton
5651 Gateway Parkway
Jacksonville, FL 32256

Ambassador Servcies, Inc.
11710 North Freeway, Suite 100
Houston, TX 77060-3708

Department of State Health Services
Tayrn Lam HHSC
701 West 51st St., MC-W252
Austin, TX 78751

UnitedHealthcare Ins. Co.
Attn: CDM/Bankruptcy
185 Asylum St. – 03B
Hartford, CT 06013

Pitney Bowes, Inc.
27 Waterview Dr., 3rd Floor
Shelton, CT 06484

Canon Medical Systems
c/o RMC
400 W. Cummings Park
Woburn, MA 01801

Laboratory Corp. of America
PO Box 12140
Burlington, NC 27216

White Plume
Two Metroplex Dr., Suite 310
Birmingham, AL 35209

M2 Lease
175 N. Patrick Blvd., Suite 140
Brookfield, WI 53045

Houston's Courier
2102 Alabama
Houston, TX 77004

Henry Schein, Inc.
Dept. CH 10241
Palatine, IL 60055-0241

Texas Emergency Room Servcies, PA
c/o Allan B. Diamond
Diamond McCarthy, LLP
909 Fannin, 37th Floor
Houston, TX 77010

KME Holdings, LLC
5502 Merrywing Circle
Austin, TX 78730

US Retailers LLC d/b/a Cirro Energy
PO Box 1046
Attn: Bankruptcy Dept.
Houston, TX 77251-9995

Stefan Gray
17422 Edenway Drive
Spring, TX 77379

Cypress MOB, LLC
c/o Yonatan Z. Gerber
Gerber & Most, PLLC
5555 West Loop South, Suite 400
Houston, TX 77401

Physicians Alliance of Red Oak, LP
5037 FM 2929
Spring, TX 77388

Montgomery County
c/o Tara L. Grundemeier
Linebarger, Goggan, Blair & Sampson
PO Box 3064
Houston, TX 77253-3064

/s/ William P. Haddock
William P. Haddock

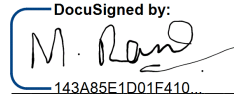
Exhibit 1

DECLARATION UNDER PENALTY OF PERJURY

I, RAVISHANKAR MALLAPURAM, HEREBY DECLARE, UNDER PENALTY OF PERJURY, THE FOLLOWING:

1. My name is Ravishankar Mallapuram, and I am over the age of 18 and have never been convicted of a felony or a crime of moral turpitude. I am a Managing Member of Doctors Hospital 1997 LP d/b/a United Memorial Medical Center ("UMMC"), a party in interest, in the bankruptcy case in which this claim objection is filed. I am duly authorized by the UMMC to make this Declaration.
2. I have read the above and foregoing Objection to Proof of Claim. The facts stated in Objection to Proof of Claim and in this Declaration under Penalty of Perjury are within my personal knowledge and they are true and correct.

SIGNED 11/16/2022

DocuSigned by:

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Ravishankar Mallapuram